

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-902V

UNPUBLISHED

K.B.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: October 16, 2020

Refiled in Redacted Form: April 9,
2021

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Tetanus Diphtheria
acellular Pertussis (Tdap) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for petitioner.

James Vincent Lopez, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

On June 20, 2019, K.B. filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of the tetanus, diphtheria, and acellular pertussis (“Tdap”) vaccine administered to her on December 1, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ When this ruling was originally filed I advised of my intent to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), Petitioner filed a timely motion to redact certain information. This decision is being reissued with Petitioner's name redacted to initials. Except for those changes and this footnote, no other substantive changes have been made. This decision will be posted on the court's website with no further opportunity to move for redaction.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On October 15, 2020, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, Respondent

Medical personnel at the Division of Injury Compensation Programs, Department of Health and Human Services ("DICP"), have reviewed the petition and medical records filed in the case. It is Respondent's position that Petitioner suffered SIRVA as defined by the Vaccine Injury Table. Specifically, Petitioner had no recent history of pain, inflammation, or dysfunction of her left shoulder that would explain the alleged signs, symptoms, examination findings and/or diagnostic studies occurring after vaccine injection; the onset of pain occurred within forty-eight hours after receipt of an intramuscular vaccination; the pain was limited to the shoulder in which the vaccine was administered; and, no other condition or abnormality has been identified to explain Petitioner's left shoulder pain. 42 C.F.R. §§ 100.3(a), (c)(10).

Id. at 5. Respondent further agrees that "Petitioner suffered the residual effects of her condition for more than six months. 42 U.S.C. § 300aa- 11(c)(1)(D)(i)." *Id.* at 5-6.

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master